POLITICAL AND MUNICIPAL LEGISLATION IN 1902[1]

Constitutions.—The revised Connecticut constitution submitted to the people at a special election held June 16, 1902, was rejected. Gross inequality in legislative representation was the great evil that led to the holding of a constitutional convention. The convention, however, failed utterly to correct this evil and the makeshift that it offered the people was acceptable to neither party.

A constitutional convention met in New Hampshire in December, 1902. The present constitution of that state was adopted in 1792 and has since been amended but three times. The constitution of the state requires the question of calling a convention to be submitted every seven years.

The constitution adopted by the Virginia constitutional convention was declared in force June 10, 1902, without submission to the people. The new constitution is three times as long as the previous constitution of 1869. About half of the document treats of subjects that are in no sense organic in character, and many of the provisions relating to subjects of a fundamental character might better be left to statutory regulation. It seems odd that in what purports to give the fundamental framework of the government as much space should be devoted to corporations (chiefly transportation) as to the three departments of government, legislative, executive and judicial.

The bill of rights and the articles on the executive and judicial departments are not greatly increased in size; the article on suffrage and elections is expanded from less than a page to six pages; that on the legislative department is expanded to double its former size, chiefly by the inclusion of detailed restrictions on special legislation; that on municipal government is expanded from two to six pages by prescribing in considerable detail the organization of cities; the article on education sets forth in considerable detail the organization and duties of the state board of education; the article on taxation and finance covers four times as many pages as the former article and contains detailed provisions for the taxation

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of railways and canals, which, however, may be modified by the legislature after 1913. Entirely new articles are added on agriculture, public institutions and corporations. The detailed provisions of the later article relating to the regulation of transportation and transmission companies may, after January 1, 1905, be amended by the legislature on the recommendation of the state Corporation Commission. These various methods of amendment will in the future make the consultation of the Virginia constitution a rather difficult task. The question arises whether if constitutional conventions will persist in enacting strictly statutory regulations, such regulations should not be excluded and issued as separate statutes or ordinances subject to repeal as other statutes by the ordinary law-making power.

Constitutional Amendments.—Of the sixty amendments submitted to the people in 1902, forty-seven were adopted.

To facilitate voting on constitutional amendments, Ohio ('02, p. 352) has followed the lead of Nebraska ('01, ch. 29) in providing that if the state convention of a political party declares for or against a proposed constitutional amendment such declaration shall be considered a portion of the party ticket. A straight vote for the ticket will then count as a vote for or against the amendment. In these, as in a number of other states, not simply a majority of those voting on amendments is required, but a majority of all the votes cast at the election. Many voters favoring an amendment neglect to vote on it, so that amendments often fail even though there be little opposition to them.

The present constitution of Ohio was adopted in 1851 and since that time very few amendments have been accepted by the people. Several important amendments will be submitted in 1903 and it is expected that the new law will facilitate their adoption. This is carrying our system of party government one step further, as under it party conventions become important constitutional assemblies. Our constitutions have become so voluminous and detailed, including as they do much purely administrative law, that constant amendment is almost a necessity, and if the people will not take the trouble to vote individually on matters not of great public interest it seems better to have party responsibility than to have the result determined by a few. Of the sixty amendments submitted to the people in 1902 not more than one-third were, strictly speaking, questions of constitutional law.

In Minnesota three amendments that received at the last election a very large majority vote failed because they did not have a majority of all the votes cast at the election. On the taxation amendment there were 124,584 votes in favor and only 21,251 against. With a provision similar to that of Nebraska and Ohio these amendments might have been adopted. In Mississippi also two amendments that received a majority vote failed for the same reason. Another amendment was submitted at the same election in Mississippi (which, however, failed even to receive a majority of the vote cast upon it) providing that a majority of the votes cast on the question of an amendment should hereafter be sufficient for its adoption, and providing also that the decision of the legislature should be final as to whether an amendment had been duly adopted. In State v. Powell, 77 Miss. 543, the Supreme Court held that the questions of legality of submission and adoption of amendments were judicial questions. The constitution provides that amendments adopted by the people shall be inserted in the constitution by the legislature and the adoption of the proposed amendment would have made such action final.

State Boards and Commissions.—About the usual number of new boards and offices have been created, boards for the examination and licensing of various professions and occupations being particularly numerous. In the past the movement toward a multiplicity of boards and commissions has been most marked perhaps in New York and Massachusetts. In 1901, however, Governor Odell secured the consolidation of a number of boards and offices, and during 1902 Massachusetts has accomplished even more in this same direction. In accordance with the recommendations of Governor Crane the following consolidations or transfers of power were made: transfer of powers and duties of pension agent to commissioner of state aid; transfer of powers and duties of fire marshal to district police; of cattle commissioners to State Board of Agriculture; of inspector of gas and gas meters to Board of Gas and Electric Light Commissioners; of inspector general of fish to Board of Fish and Game Commissioners; of inspector and assessor of liquors to State Board of Health. In Ohio the duties of the Board of Live Stock Commissioners were transferred to the State Board of Agriculture ('02, p. 412).

Uniform Legislation.—Ohio and Louisiana have created boards for promoting uniform legislation (O. '02, p. 107; La. '02, ch. 39). An Ohio act of 1898 (p. 295) provided for a similar commission limited in duration, however, to two years. Massachusetts has added two members to its commission, one to represent workmen and the other manufacturers, to further the uniform adoption of the eight-hour day. Iowa, New Jersey and Ohio have adopted the uniform negotiable instruments law, making in all nineteen states that have adopted it.

Veto Power.—The new constitution of Virginia adds to the governor's right to veto separate bills the right to veto any particular item or items of an appropriation bill (§ 76). This power is now granted the governor in about half the states. In three states, Rhode Island, Ohio and North Carolina, the governor has no veto whatever. Governor Kimball, of Rhode Island, in his message recommends the granting of the veto to the governor, but no action has been taken by the legislature. Ohio has submitted to vote in 1903 a constitutional amendment giving the governor a stronger veto than is now exercised by the governors of most other states. He may veto any bill, *any section of a bill* or any item of an appropriation bill ('02, p. 962.) The governor of Washington also is permitted to veto separate sections of any bill (Constitution, Art. 3, § 12). This gives him a very effective control over all kinds of legislation.

Direct Legislation.—Oregon adopted the initiative and referendum amendment submitted in June, 1902, by a vote of 62,024 to 5,668. The total number of votes cast at the election was 92,920. The amendment is sufficiently complete in its provisions not to need legislation to put it into effect. It applies to state legislation only and provides for the initiative on the petition of 8 per cent and for the referendum of 5 per cent of the electors ('01, p. 471).

In recent years the legislatures have become accustomed to attach a referendum clause to a great many local acts. Many general laws also only become applicable to particular localities on the affirmative vote of the electors of the locality. It is believed that in many cases this movement has gone too far, making mandatory a vote of the electors on subjects which might better be passed on by the regular local authorities. To be most effective the referendum should be optional, that is, apply only where there is

a demand for it evidenced by a petition signed by a certain percentage of the voters. It is of course desirable that local acts should not become operative in communities without their consent, but it would be better to make the consent of the local governing board sufficient, except where a petition is presented asking for the referendum.

Special Legislation.—During the session which began December 4, 1901, and ended March 4, 1902, the Virginia legislature passed 694 laws, only eighty-seven of which were general and permanent in character. The new constitution contains numerous restrictions on special legislation and we may therefore expect that at the next session the proportion of general laws will be greatly increased.

Under the old constitution there were practically no restrictions on special legislation. Under the new constitution the legislature is prohibited from passing special private or local laws in twenty enumerated cases including chartering or the amending of the charter of a private corporation, granting any privilege or immunity to a private corporation, exemption from taxation, regulating interest, granting pensions, conducting elections, etc. (§ 63). Special municipal legislation is not prohibited, but the legislature is enjoined to pass general laws for the government of cities and towns and may pass special laws only by a recorded vote of two-thirds of the members elected to each house (§ 117). The amendment or partial repeal of a general law "shall not operate directly or indirectly to enact and shall not have the effect of the enactment of a special, private or local law" (§ 64).

A joint committee on special, private and local legislation is provided for, consisting of seven members from the house and five from the senate. Before reference to a committee, every special, private or local bill must be considered by this joint committee and reported with a statement in writing whether the object of the bill can be accomplished under general law or by court proceedings. Either house, however, may discharge the joint committee from the consideration of a bill (§ 51).

Legislative and Congressional Apportionment.—Eighteen states reapportioned congressional districts in 1901, and six states in 1902, making twenty-four that have provided a reapportionment since the Federal census of 1900. Fifteen states reapportioned

representation in both branches of the legislature in 1901, and two states have done so in 1902, while in the two years fourteen states have reapportioned representation in either the upper or lower branch of the legislature. Governor McSweeney, of South Carolina, in recommending a reapportionment of congressional districts states, "there no longer exists any reason for the shoestring districts which we have in this state, and it is a duty you owe the people to redistrict the state into congressional districts that will be compact and contiguous in territory."

Sessions.—The Virginia legislature has been meeting biennially in December of odd years, but under the new constitution it will now meet in January of odd years. Iowa has referred to the legislature of 1904 a constitutional amendment changing the time of the biennial sessions of the legislature from even to odd years ('02 j. r. 5.) All of the states having biennial sessions except Vermont, Ohio, Iowa, Kentucky, Maryland, Mississippi and Louisiana now hold their sessions in the odd numbered years.[2]

In Mississippi the legislature now meets in regular session every four years and also in regular "special session" every four years, the regular and special sessions alternating so that a session is held biennially. This "special session," however, is strictly limited in duration and in the subjects that may be considered without a special recommendation from the governor. At the election in November a constitutional amendment was rejected providing for regular sessions every two years ('02, ch. 142).

In Virginia the new constitution reduces the duration of sessions from ninety to sixty days, but as formerly a thirty-day extension may be had on a three-fifths vote.

Presiding Officer of Senate.—Rhode Island has conformed to the practice of sister states by the adoption of a constitutional amendment in November, 1902, making the lieutenant governor the presiding officer of the senate in place of the governor ('02, ch. 952). On disability of the governor the lieutenant governor formerly acted as presiding officer. Under the new provision the senate will elect a president *pro tem.*

Direct Election of United States Senators.—Governor Voorhees, of New Jersey, and Governor Tyler, of Virginia, recommend

[2] The Alabama Constitution of 1901 changed the time of session from biennially in November of even years to quadriennially in January of odd years.

that steps be taken to secure the election of United States Senators by direct vote of the people. Governor Voorhees makes the point that "that conservatism of sentiment, that cautiousness in action which it is thought comes from the manner of the election and which is so greatly to be desired, owes its origin not to the method of selection so much as to the length of term for which the selection is made." He contends that at present in many cases the influences brought to bear on legislators in making the selection of United States Senator are not such as to further the wisest choice.

No action was taken by the legislatures of either New Jersey or Virginia in accordance with these suggestions, but the Kentucky legislature adopted a resolution similar to that adopted by twelve other states in 1901, petitioning Congress to call a convention to propose an amendment to the United States Constitution providing for the election of senators by popular vote ('02, p. 394). The Kentucky resolution contains the following preamble:

> *Whereas,* A large number of state legislatures have at various times adopted memorials and resolutions in favor of election of United States Senators by popular vote, and
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> *Whereas,* The National House of Representatives has on four separate occasions within recent years adopted resolutions in favor of this proposed change in the method of electing United States Senators, which was not adopted by the Senate, and
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> *Whereas,* By reason of alleged corruption and fraud and the corrupt use of money the election for United States Senators in several states has been prevented and by dead-locks several states have failed to elect senators and in a number of instances the will of the people, prevented, and
>
> *Whereas,* Article fifth of the Constitution of the United States provides that Congress on the application of two-thirds of the several states shall call a convention for proposing amendments, and believing there is a general desire upon the part of the people of Kentucky that United States Senators should be elected by the people, be it resolved, etc.

In a number of states where the direct nomination system has been in use it has been customary to nominate the party candidate for senator by direct vote. The new Mississippi direct primary law applies to such nominations ('02, ch. 66, § 18).

Virginia Suffrage Qualifications.—As in the case of all recent constitutional conventions in the South, the chief problem before the Virginia convention was that of negro suffrage. The solution reached is similar to that reached by Louisiana in 1898, North Caro-

lina in 1900, and Alabama in 1901. Previous to January 1, 1904, every male citizen having the prescribed qualifications as to age and residence is entitled to register if he: (1) has served in the United States or Confederate army or navy, or (2) is a son of such person, or (3) owns property on which he has paid at least $1 state taxes during the preceding year, or (4) is able to read and give a reasonable explanation of any section of the Constitution or if unable to read such section, is able to understand and give a reasonable explanation thereof when read to him by the registration officers. Persons thus enrolled are not required to register again unless they shall have ceased to be residents of the state or have otherwise become disqualified (§ 19).

Any person not registered previous to January 1, 1904, must conform to the following conditions in order to register: (1) pay personally all state poll taxes assessed against him for the three years next preceding; (2) unless physically unable he must make application to register in his own handwriting, without aid, in the presence of the registration officers, stating his name, age, date and place of birth, residence and occupation (§ 20).

All persons duly registered, except veterans, in order to vote must have paid, at least six months prior to the election, all state poll taxes for the three years next preceding (§ 21, 22). Every voter registered after January 1, 1904, must, unless physically unable, prepare and deposit his ballot without aid, on such printed form as the law may prescribe; but any voter registered prior to that date may be aided in the preparation of his ballot (§ 21).

The legislature may prescribe a property qualification not exceeding $250 for voters in any county, city or town in local elections, but such action must be on the initiative of a representative in the legislature of the county, city or town affected, and the legislature may in its discretion make such exemptions from the operations of this property qualification as shall not be in conflict with the Constitution of the United States (§ 30).

Poll Tax.—The payment several months prior to the election of all poll taxes for the two or three years next preceding is an expedient adopted by a number of the Southern states for disfranchising the indifferent or corrupt elector. When the payment of a poll tax at any time previous to the election is a requirement for voting, it often results in the payment of the tax by the person or

party that needs the vote of the elector. Such, however, will hardly be the case if payment is required six months previous to election. Texas has just adopted a constitutional amendment providing that every voter shall hold a receipt for his poll tax showing its payment before February 1 next preceding the election ('01, p. 322). In Louisiana a constitutional amendment for the repeal of the provision requiring the voter to show poll tax receipts of two preceding years was rejected by the people ('02, ch. 83). The new Virginia Constitution requires the payment at least six months prior to election of all state poll taxes for the three years next preceding.

Party Organization.—The new direct primary law in Mississippi ('02, ch. 66), provides that whenever there are two executive committees in any county claiming recognition as the regular executive committee of the same political party the state executive committee may, after giving thirty days' notice, order a primary election for the purpose of selecting a new executive committee and may appoint a sub-committee to appoint the election officers to conduct the primary election and receive the returns. The conclusion of the state executive committee as to the result of the election is final.

The state executive committee consists of three members from each congressional district chosen by the delegates from the different congressional districts attending the state convention. Their term is four years.

The county executive committee consists of fifteen members, three from each supervisor's district, elected at a primary election or chosen by the delegate county convention. Each county has representation on the district executive committee in proportion to double its vote in the House of Representatives. The full vote to which each county is entitled may be cast by its executive committeemen present at the meeting of the district committee.

A state convention shall be held by each party in 1904 and every four years thereafter to select a state executive committee to appoint delegates to the national convention and to nominate presidential electors. Each county is entitled in the state convention to a number of votes equal to double its representation in the House of Representatives. The delegates are selected by county delegate conventions held in each county.

County executive committees may investigate irregularities in the conduct of a primary election in any precinct. State and district committees are also given similar powers and may review the action of county executive committees and correct any errors they may make relating to district or state offices.

Enrollment.—The new primary law for Baltimore provides an enrollment of party members at the time of registration. There shall be provided in the registration books a column headed "party enrollment," and the board of registry shall enter in this column the name of the political party, if any, to which the voter is inclined and with which the voter desires to have himself recorded as affiliated. It shall be the duty of the board of registry to explain to each voter that the statement of such party affiliation does not bind him to vote for the candidate of such party at any given election; also, that he has the right to decline to state any party affiliation, but that no one who is not recorded upon the registry as affiliated with a particular political party will be qualified to vote at subsequent primary elections of said political party. A voter failing to enroll may enroll at any intermediate registration subsequent to the close of the next general registration ('02, ch. 296, § 153).

New York, which had already provided for an enrollment at the time of registration in cities of the first and second class, has now made provision for a town enrollment at the time of registration on vote of the county committee. The act, however, applies to but nine of the sixty-one counties in the state. Personal application for enrollment is not required and supplemental enrollment is provided for. The expense is a town charge ('02, ch. 195).

Test of Party Allegiance.—The Mississippi direct primary law provides that no person shall be eligible to participate in primary elections unless he intends to support the nominations in which he participates and has participated with the political party holding the primary within two years preceding and is not excluded from such primary by regulations of the party state executive committee. The test provided by the new Baltimore law is given above under Enrollment.

Primary Elections.—The governors of Maryland, Mississippi, New Jersey and Virginia recommended to their respective legislatures the enactment of general primary laws. Governor Smith, of Maryland, said: "The people are as much entitled to their right

to choose candidates as to their right to choose their officers at the ensuing election." The Maryland legislature passed an act, general in form, but containing in its last section an exemption of every county in the state, leaving the act applicable only to the city of Baltimore ('02, ch. 296). The act applies to parties casting 10 per cent of the vote. Elections for all parties are held at the same time and place, the day being fixed by agreement of the governing bodies of the parties. The elections are conducted under the direction of the board of supervisors of elections by the regular election judges and clerks. The expense of the primary is a public charge and separate official ballots are provided. Nomination by direct vote or by convention is optional with the parties. If nominations are to be made by conventions, each candidate may have his name placed on the official ballot above the names of the set of delegates selected by him or running in his interest and every vote cast for the candidate by marking in the square opposite his name is counted for his entire set of delegates.

Baltimore is thus added to the list of communities still comparatively small in number in which the official primary is mandatory, the term official primary being here used to designate primaries conducted by public officials under strict statutory regulation. Laws providing for such primaries are in force in California, Illinois, Maryland, Michigan, Missouri, New York, Ohio and Oregon. Only in Minnesota, however, are official primaries mandatory throughout the entire state. In California they are mandatory in cities and counties of 7,500; New York, in cities of the first and second class; Ohio, in Hamilton and Butler Counties; Maryland, in Baltimore; Illinois, in Cook County; Michigan, in Grand Rapids; Oregon, in Portland. In Massachusetts and Rhode Island primaries are conducted under strict statutory regulations by party officials elected annually for the purpose of conducting all primaries during the year.

The governor of Mississippi calls attention to the provision in the constitution requiring the enactment of laws to secure fairness in primaries and conventions and states that existing statutes do not meet the constitutional requirement or amount even to a respectable makeshift. In conformity with his recommendation the legislature passed a primary law providing for direct nominations of candidates at elections held under the control of party committees subject

to comparatively simple regulations ('02, ch. 66). It is the duty of the state executive committee of each party to furnish the county committee a sample of the official ballot to be used, "the general form of which shall be followed as nearly as practicable." This act also prescribes to some extent the form of party organization and representation in conventions.

Governor Murphy, of New Jersey, in recommending a primary election law states that primaries in New Jersey are still conducted by party agencies and that under present conditions "the free and untrammeled expression of the party voters is well nigh impossible." He states that it is currently reported that in more than one case the popular will has been unable to express itself and the popular choice set aside by practices and proceedings rendered possible by the methods under which primaries are conducted. He recommends that the primaries of the two leading parties be held under the supervision of the regular boards of election and that the expense be made a public charge. The only action taken by the legislature of 1902 toward carrying out the governor's recommendation was to authorize the governor to appoint a commission to examine into the advisability of a new primary election law and report to the legislature of 1903 ('02, ch. 150).

The recommendation of Governor Tyler, of Virginia, failed to secure any legislation on the subject. The new constitution, however, enjoins the legislature to pass such laws as are necessary to secure the regularity and purity of primary elections (§ 36).

Direct Nominations.—The system of direct nominations as opposed to nomination by convention, has long been in use by the voluntary action of political parties to a considerable extent in all the Southern states and to a less extent in Colorado, Indiana, Iowa, Kansas, Maryland, Missouri, Nebraska, Ohio, Pennsylvania and South Dakota. The direct vote system has recently been made mandatory in nominations for certain offices in Minnesota ('99, ch. 349; '01, ch. 216), and Grand Rapids, Mich. (Local acts '01, ch. 471), and to a limited extent in Massachusetts ('01, ch. 402; '02, ch. 537). Mississippi has now made direct nominations mandatory ('02, ch. 66), but the primaries are to be held as formerly under the supervision of the party committees.

The practice in Boston has for some time been almost equivalent to the direct vote system. The general primary law provides that

against the names of delegates to a convention a statement may be added that they are favorable to or opposed to certain persons or measures. In 1901 the legislature passed an act making mandatory direct nominations for state senator and for members of the state committee in each of the Suffolk County senatorial districts ('01, ch. 402). In 1902 provision for direct nomination was extended by an act providing that "every nomination by a political party of a candidate for representative in the general court or any elective city office, except a member of the school committee of Boston, to be voted for annually in two or more wards of one city, shall be made in caucuses by direct plurality vote" ('02, ch. 537).

Mississippi has made direct nominations mandatory for all parties ('02, ch. 66). The law applies to all nominations for state, district, county and county district offices. The primaries are held under the supervision of the county executive committees. The expense of the primary is borne by the party and the candidates. The cost of printing ballots and transmitting ballots and booths is apportioned by the county executive committee among the candidates and the law provides that this shall be the only expense chargeable against candidates. A majority vote is required to nominate, but candidates for legislative, county and county district offices may agree, in writing, that the candidate receiving a plurality shall be declared the nominee. In case of a state or of a district office, if no candidate receives a majority, then, if the candidate who received the highest vote, received a majority of the electoral vote, by giving to each county the same electoral vote that it has representation on the district executive committee and by giving the electoral vote of the county to the candidate having the highest popular vote in the county, he shall be declared the nominee. If no nomination results from the first primary a second is held limited to the two candidates receiving the highest number of votes at the first primary.

Ballots.—Governor Smith, of Maryland, commends the election law adopted at the extra session of 1901 (ch. 2) abolishing party emblems and providing an alphabetical arrangement of candidates. He says, "it has fulfilled the expectation and design of its framers in promoting independent, intelligent and discriminating voting and in rendering the ballot absolutely secret, thereby decreasing bribery and improving the moral tone of our elections." Under this law it will be recalled that in order to make the task of the illiterate

voter even more difficult, the tickets in some counties were published in fantastic type. To correct this abuse the governor advised the use of uniform type throughout the state and a law was passed to effect this ('02, ch. 133).

The new constitution of Virginia provides that ballots shall be without any distinguishing mark or symbol and that the voter may erase any name on the ballot and insert another (§ 28).

Governor Odell calls attention to the large number of defective ballots that have resulted from various regulations to secure secrecy of the ballot. He points out that the validity of a marked or defective ballot must be passed on by officials who are apt to be biased in their judgment and that in a close election the result may turn on their decision.

Voting Machines.—California adopted a constitutional amendment allowing the use of voting machines ('01, p. 960), and the new Virginia constitution authorizes the legislature to permit their use (§ 37). Governor Murphy, of New Jersey, recommended the use of voting machines as a means of securing greater secrecy of the ballot and the legislature passed an act permitting their use in all state and local elections. The act provides for the appointment by the governor of a state board of three voting machine commissioners and for the adoption and use of voting machines by municipalities on the approval of the state board ('02, ch. 205).

Election Officers.—The Kentucky act of 1898 (ch. 13) centralizing control of elections in a state board of election commissioners, consisting of three persons elected by the legislature, has been declared unconstitutional on the ground that it delegates executive duties to the legislature and judicial duties to the board of election commissioners (Pratt v. Breckenridge, 65 S. W. 136). The state board was authorized to appoint county boards of election commissioners for each county, who in turn were to appoint the election officers. The state and county boards were also boards of canvassers and contest. The Missouri law of 1899 (p. 197) creating for cities of 100,000 a board of three election commissioners appointed by the governor was also declared unconstitutional as to the limitation placed on the selection of one of the three commissioners (State v. Washburn, 67 S. W. 592). The act provided that one commissioner was to be of a different party from the other two and nominated by the central committee of the party.

Corrupt Practices.—The movement for corrupt practices acts which spread rapidly from 1890 to 1896 has since 1899 experienced a decided setback. Beginning with New York in 1890 (ch. 94), seventeen states adopted corrupt practices acts, the last to do so being Nebraska in 1899 (ch. 29). Then came a turn in the tide. Nevada repealed its act in 1899 (ch. 108), Michigan in 1901 (ch. 61), and Ohio in 1902 (p. 77).

The Ohio law known as the Garfield corrupt practice law was adopted in 1896 (p. 123) and except that it contained no definition of legitimate and illegitimate expenditures was as complete in its provisions as that of any other state. A candidate's expenditures were limited to $100 for 5,000 voters or less, but not more than $650 in any case. Candidates before a convention or primary for nomination to public office were required to file statements, as well as candidates for election. At any time during his term any occupant of an office filled by popular election could be proceeded against and his office declared vacant if he was found to have violated the provisions of the corrupt practices act. The law also defined political committees and required every such committee to have a treasurer and provided that the treasurer and every person receiving or disbursing money aggregating more than $20 should keep detailed accounts. The treasurer was also required to file a statement of receipts and expenditures with the county clerk.

That the corrupt practices acts adopted by the states have proved failures will hardly be questioned. Unless some method is found to remedy their defects other states will follow the example of Nevada, Michigan and Ohio in securing their repeal. Under the existing system of party government the political party is a governmental institution of paramount importance and as such should be subject to strict statutory regulation not only as to primaries, but as to conventions, organization and especially the collection and disbursement of party funds. Funds collected by blackmail and disbursed to corrupt the electorate are the stronghold of party irresponsibility and bossism. But the best party organization demands large funds and the rank and file of party members do not feel called upon to contribute a penny toward their party's support; the immense funds secured are obtained chiefly by the assessment of candidates, public officers and employees, corporations and vice. Collected by devious methods they are disbursed in the most secret

and irresponsible manner. Naturally transactions of this kind do not court publicity—that would be suicidal.

Municipal Home Rule.—The proposed home rule amendments in California, Colorado and Mississippi noted in this review last year were all adopted by the people. The California amendment provides that amendments to home rule charters must be submitted to popular vote if petitioned for by 15 per cent of the qualified voters, there being no provision for popular initiative under the former constitutional provision ('01, p. 950). The Colorado amendment empowers cities of over 2,000 to make, revise and amend their charters ('01, ch. 46). The Missouri amendment modifies the former home rule provision by providing that city law-making authorities may order the popular election of thirteen freeholders to prepare a new charter for adoption by a majority vote ('01, p. 263).

An Indiana act of 1901 (ch. 92) creating boards of public safety in cities of 25,000 to 49,000 appointed by the governor and having charge of the police and fire departments has been declared unconstitutional (State v. Fox, 63 N. E. 19). The court holds that localities can not be deprived of their right to appoint fire department officials, such officials being purely local officers, and that although the legislature has the right to regulate the police as a governmental agency the provisions of the act relating to the police department are so connected and dependent upon those relating to the fire department that the act as a whole is void. In holding that, though the legislature may provide for the central appointment of police officers, the localities can not be deprived of their right to appoint fire department officials as such officials are purely local officers while police officers are agents of the state, this case follows that of State v. Denny, 118 Ind. 449, and State v. Moores (Neb.) 76 N. W. 175. The Supreme Court of Iowa has declared void an act authorizing the district court to appoint trustees of water works in cities of the first class ('00, ch. 25). The court holds that such control is invalid as taking from the city (1) the right of local self-government and (2) the management and control of its property (State v. Barker, 89 N. W. 204).

Ohio Municipal Code.—The new code adopts a very simple classification for municipalities; those of 5,000 being cities, those under 5,000, villages. A uniform government is provided for all municipalities in each of these two classes, and many provisions

apply to both cities and villages. The charter creates the following city boards and officers: mayor, council, president of council, board of public service, board of public safety, auditor, treasurer, solicitor and board of health.

The council consists of not less than seven members, partly elected by wards and partly by the electors of the city at large for terms of two years. When the council consists of seven members, four are elected by wards and three at large. Whenever the total number of members is fifteen or more, one-fifth of the number are elected at large. The compensation of members is limited to $150 in cities of 25,000 and $100 additional for each additional 30,000 in population, but not exceeding in any case $1,200 a year. The president of the council is elected by the people for two years. He has no vote except in case of a tie. The mayor may veto any ordinance or any specific item of an appropriation ordinance. His veto can only be overruled by a two-thirds vote.

The mayor is elected by the people for two years. He may be removed by the governor for cause after hearing. The annual city budget is prepared by the mayor from estimates furnished by the various boards and officers. The mayor may not increase the total of any estimate submitted to him and the council may not increase the total of the budget as submitted by the mayor but may reduce or omit any item.

The Board of Public Service has the complete management and supervision of all public works, public buildings and charitable and correctional institutions. It is administered by three or five directors elected by the people for two years. The board may employ superintendents, inspectors, laborers, etc., and fix their compensation. The only control to which the board is subjected is that of impeachment, and the control exercised by the mayor and the council in the granting of appropriations.

A Board of Public Safety is created to have a general supervision and considerable direct control over the police and fire departments. It is administered by two or four directors appointed by the mayor with the consent of two-thirds of the council for terms of four years. Not more than half of the number of directors shall belong to the same political party. If through failure of the mayor and council to agree no appointment is made within thirty days from the date when a vacancy occurs, the governor shall make the appoint-

ment. The Board of Public Service makes all contracts with reference to the management of the police and fire departments and provides for the classification of officers and employees and the examination of applicants for appointment or promotion. All appointments in the classified service including the chief of police and the chief of the fire department are made by the mayor. The mayor may remove any officer or employee for cause subject to appeal within ten days to the Board of Public Safety whose decision is final. The chiefs of the fire and police departments have exclusive control of the stationing and transfer of officers and may suspend any officer or employee subject to the decision of the mayor and a final appeal to the Board of Public Safety. It seems that here the system of checks and balances has reached its highest possible development. No complexity of organization is spared to effect a complete diffusion of responsibility. Even party responsibility, which often supplies a lacking harmony in the governmental organization, is here excluded.

The Board of Health consists of five members appointed by the mayor and confirmed by the council. The treasurer and solicitor are elected for two years and the auditor for three years.

Uniform Accounts.—Ohio has created a bureau of inspection and supervision of public offices in the department of the auditor of state. The state auditor is made *ex-officio* chief inspector and supervisor. He appoints three deputies, not more than two of the same political party. He may appoint as many assistants as are needed as state examiners. It is the duty of the auditor to establish a uniform system of accounting and auditing and to make an annual examination of every public office. The expense of maintaining the bureau is apportioned among the counties according to population, and each taxing body is required to pay for the auditing of its own accounts ('02, p. 511).

The new Virginia constitution provides that "the General Assembly shall provide for the examination of the books, accounts and settlements of county and city officers who are charged with the collection and disbursement of public funds" (§ 115).

Franchises.—The new Virginia constitution makes the consent of municipal authorities necessary for the use of streets or public places by public service corporations (§ 124). Franchises are limited to thirty years and must be sold at public auction. They may

contain provision for public purchase at the expiration of the franchise (§ 125). Louisiana provides that each franchise in cities of 50,000 must be sold or granted separately ('02, ch. 106). South Carolina authorizes cities and towns on two-thirds vote of aldermen or common council confirmed by a majority vote of electors to grant exclusive franchises to furnish lights and water for a period not exceeding thirty years ('02, ch. 560).

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